

September 6, 2007

<u>Via Electronic Mail Only</u>	<u>Via Electronic Mail Only</u>
Maureen McClain, Esq. KAUFF, MccLAIN & McGUIRE One Post Street, Suite 2600 San Francisco, CA 94104	Scott Emblidge Esq. MOSCONE, EMBLIDGE & QUADRA 220 Montgomery Street, Suite 2100 San Francisco, CA 94104-4238
<u>Counsel for Plaintiff</u> Coyness L. Ennix, Jr., M.D.	<u>Counsel for Defendants</u> Russell D. Stanten, M.D., et al.

Re: *Ennix v. Stanten, et al.*
Civil Case Number: C-07-02486 WHA ENE

Dear Counsel:

This will confirm that we have scheduled the Early Neutral Evaluation in the above-reference matter for **Wednesday, October 24, 2007 at 1:00 p.m.** in my office.

Please make sure that the written statements described in ADR Local Rule 5-8 are exchanged and in my office no later than **12:00 noon on Monday, October 22, 2007** (the Local Rules do require 10 days' notice, but as we discussed, as long as they are received and exchanged by that date, we should all have ample opportunity to be prepared for the mediation hearing. Although I do not have the authority to order it, I asked you to please give your clients a copy of your own ENE statement, and that of your opponent. It helps the clients better understand the positions of all parties.) Please include any key documents that you believe will be helpful to me in evaluating the case. If there are particular legal issues, please cite to the key cases, so I can review them in preparation for the ENE hearing. Also, the more focused the written statements are regarding the contested facts and legal issues in the case, the better prepared we will all be and the more meaningful our session will be. As we discussed, please feel free to e-mail the statements, so long as I receive them by October 22nd at noon. If there are documents you wish me to review, please either scan them and attach them to the e-mail, or mail them ahead of time. If the documents are voluminous please do not attach them to the e-mail, but instead kindly drop them in the mail to me and to opposing counsel.

Please prepare for the ENE session by discussing each of the following items with your clients:

- The strengths and weaknesses of your case
- The probable outcome if the case proceeds to trial
- Your plans for discovery and motions

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- Your clients' goals, needs and priorities
- Your clients' best and worst alternative to a negotiated settlement; and
- Your estimated budget to litigate the case through trial

As we discussed, I will donate my preparation time and the first 4 hours of the session. After that, if you all agree to continue, I will charge the court-set rate of \$200 per hour under ADR Local Rule 5-3(b) for the next 4 hours, and \$300 per hour thereafter.

I look forward to meeting with you and your clients.

Very truly yours,

/s/ *David A. Levy*

DAVID A. LEVY

DAL/rcv

cc: Alice M. Fiel – ADR Case Administrator (via electronic mail)